Ute mixed-bloods fighting legal battle for identity

Aliens in their own country, James F. Gardner and other mixed-bloods are fighting a legal battle for their identity.

Their case, which will be heard in Federal court, challenges the 1954 Ute Termination Act, which terminated membership in the Ute Tribe of 490 mixed-blood Utes. The act removed from the tribal rolls names of individuals with less than five-eighths Ute quantum, regardless of the band.

"My mother was one of the 490 who were terminated from the Uintah Band," said Gardner. She is the mother of 14. The suit contends that most of those terminated by the act were from the Uintah Band, and they are being denied their ancestral rights to be Indians.

Three members of the Ute Business Committee reaffirmed the Ute Termination Act just last year by passing a resolution in its support. The resolution declares all persons classified as Terminated Utes and their offspring to not be members of the Ute Indian Tribe and to not be recognized as members of the Indian communmity of the Uintah and Ouray Reservation.

Gardner said he filed the case to restore his "rightful membership in the Ute Tribe." He is also seeking just compensation for lost property rights, violated civil rights and psychological grief and suffering endured over the past 29 years.

He also states that Colleen Gardner, a minor when the act became law, never received proper distribution of Reservation resources and assets guaranteed in the act and her assets were wrongfully held in trust by the government.

The lawsuit states that the act made no implicit congressional declaration that natural descendants of the terminated mixed-bloods were subject to the termination, yet none of the descendants have been allowed to regain status as Ute members on tribal rolls.

"I am fighting for my identity as a member of the Ute Tribe," Gardner said who has lived his life on the reservation.

Gardner's suit charges that the Uintah and Ouray Reservation is located on ancestral land of the Uintah Band, and Uintah Band members are the only individuals retaining exclusive and absolute right of title through aboriginal treaty. The terminated Utes are denied access to sovereign treaty rights by the United States and the Secretary of the Interior, states the suit.

If Gardner wins his case in federal court, the Ute Tribe could be required to recognize mixed-blood Utes and offer some compensation. Also Gardner's state sentence for felony forgery could be appealed.

His prior appeal was denied because the Utah Supreme Court found that Gardner is not recognized as a member of the Ute Tribe. The state ruled that the trial court had jurisdiction because exclusive federal jurisdiction of mixed-blood Utes had been terminated.

A favorable ruling in Gardner's case would mean that many mixed-blood cases that were tried in state courts could be brought back into federal court to be heard again.

Group teams up for economic development

A variety of local government and community leaders are "teaming up" to promote economic development in Uintah County.

Community Partnerships for Economic Development, or CPED, met for the first time Monday, April 27. According to Vernal District Ranger Mary Wagner, one of the group's founders.

Wagner said CPED will meet quarterly. All interested individuals are invited to attend. Future meetings will also include representation from Duchesne and Daggett counties to widen the scope of cooperative efforts.

For information about CPED contact Mary Wagner or Fran Reynolds at 789-1181.

—THANKS!—

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Western Resources WRAP-UP

Grazing Fee Reports

By Helene C. Monberg,
Vernal Express
Washington D.C. Correspondent

The Department of Interior (DOI) and the Department of Agriculture (USDA) have sent to Congress a draft report on grazing fees which analyzes five different types of fees preparatory to updating and perhaps increasing federal grazing fees on Bureau of Land Management (BLM) and U.S. Forest Service (USFS) grazing lands.

This is not the final report on grazing fees that DOI and USDA will be sending to Congress by the end of this month. Spokesmen for both USFS and BLM stressed to Western Resources Wrap-up (WRW) in mid-week that their agencies have not yet made final recommendations to their departments. BLM is within DOI and USFS is within USDA.

But on the basis of the draft report being circulated on Capitol Hill, some Members of Congress and their staffs expect to see recommendations come to them in the near future to increase grazing fees on federal grazing lands.

A new report on rangeland management by the General Accounting Office (GAO), an investigative arm of Congress, noted, "The (grazing) fee formula has in recent years come under increasing Congressional scrutiny." It said the House last year favored an increase in the grazing fee in the 1992 Interior Department appropriations measure, (which ultimately became P.L. 102-154), but the Senate rejected a fee increase. The Congressional conferees on the bill directed DOI and USDA "to study the issue further and report back to...Congress by April 30, 1992." A new decision on grazing fees is expected by the Administration very shortly.

Grazing fees currently are based on a formula in the 1978 Public

Rangelands Improvement Act (PRIA; P.L. 95-514), which set grazing fees from 1978-85. PRIA required DOI and USDA to report to Congress by Dec. 31, 1985, "their evaluation of the fee established in Section 6 of this Act and other grazing fee options and their recommendations to implement a grazing fee schedule (or system) for 1986 and subsequent grazing years." The Secretaries of the two departments submitted their report to Congress in February 1986. As PRIA expired in 1985 and was not renewed by Congress, the PRIA formula based on public grazing permittees' ability to pay and the cost of production concept has been extended by executive order annually since 1986.

The DOI-USDA 1986 grazing fee report documented the relationship of public grazing to livestock production in the Western states; each agency's cost of administering grazing permits; the estimated market value of public rangeland grazing; an evaluation of the PRIA fee formula and technical modifications that could be made to the PRIA formula and retain the ability to pay/cost of production concept; alternative fee systems; and the economic effects of fee system options on grazing permittees.

In their new report updating the 1986 report, the affected agencies and departments agreed to stay with the methodology used in 1986 but to update data to 1990 values to reflect new developments or data since 1986. They agreed "not to address fee policy."

They used five different fee systems—the basic PRIA formula, and four alternatives: PRIA updated; PRIA modified; a combined market value based on the value of grazing on public rangelands, and a modified market value based on value of mature cattle. If one of the last three fee systems were used, the cost of grazing livestock on public rangelands would more than double, according to the draft DOI-USDA grazing report. It would increase less than 50 percent under the PRIA update, using as a base the 1991 fee of $1.97 per animal unit month (AUM)—ie., to pay for forage to graze one cow, one horse or five sheep for one month.

The figures in the draft report came out as follows:

Westwide Grazing Fee System Value, 1990

Fee System	1991 Value	1990 Revenue (a)
Current PRIA System	$1.97 AUM	$34,278,000
PRIA-Update Base Value	$2.90	$50,460,000
Modified PRIA	$4.63	$80,562,000
Combined Market	$4.85	$84,390,000
Modified Market Value-Mature Cattle	$4.63	$80,562,000

(a)—Assumes that all AUM's will be taken at each fee level. However, as the fee increases, DOI and USDA said there will probably be some decrease in the forage demanded, but they said the decrease cannot be projected with any degree of certainty. The figures were rounded. SOURCE: Draft of DOI-BLM and USDA-USFS report updating the 1986 grazing fee report now circulating on Capitol Hill. BLM manages about 170 million acres of rangeland in 22,500 allotments supporting more than 4 million head of domestic livestock. USFS has about 100 million acres under permit, and it has about 9,800 grazing allotments. Grazing permits are provided by these agencies for 10-year periods, with current permittees having priority for renewal.

Governor names Education Board nominating committee

Governor Norman H. Bangerter has announced the names of 77 Utahns appointed to State Board of Education Nominating Committees representing 11 of the 15 board districts. The members of the nominating committees will select candidates to run for the State School Board in general elections this November.

During the 1991 Legislative Session, Senate Bill 18 was passed which revised the process for the selection of candidates for the Utah State Board of Education. House Bill 2 was also passed during 1991, which increased the number of school board districts from nine to 15.

Each nominating committee is composed of seven members who reside within that district — a local school board member, a public school administrator, a teacher, a parent that belongs to a parent association within the district, and three members who represent economic interests and the public at large.

The nominating committee is required to submit a list of three to five candidates for the state board position to the Governor by August 1 of the election year. The Governor will then select two candidates from each list for each board district to be placed on the ballot for the general election in November.

Because four of the state school board members are not up for re-election this November, only 11 nominating committees were organized at this time. Governor Bangerter received many names of citizens throughout the state to serve for each position on these committees.

From Board District No. 2 appointed in the Community Members are from Vernal are Gayle McKeachnie, chairperson, and H. Maughan Colton.

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